

Joseph L. Mizzone  
Name

#68549  
Prison Number

ELY STATE PRISON, PO BOX 1989, ELY NV 89301  
Place of Confinement

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CLERK US DISTRICT COURT DISTRICT OF NEVADA BY: <i>[Signature]</i> DEPUTY	

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

JOSEPH L. MIZZONE

Plaintiff,

3:15-cv-00499

vs.

CASE NO. \_\_\_\_\_

(To be supplied by the Clerk)

STATE OF NEVADA, EX. REL. NEVADA DEPARTMENT  
OF CORRECTIONS, ET AL. 1>NOOC C. SMITH, 2>  
P>NOOC LT. BRANNON, 3>WARDEN MS LEEF WALSH, 4>  
WARDEN MR BACA; 5>ASSISTANT NOOC DIRECTOR  
EL MUNDO Y EL; 6>DIRECTOR NOOC MR COX,  
CIVIL RIGHTS COMPLAINT  
PURSUANT TO  
PURSUANT TO 42 U.S.C. § 1983  
JURY TRIAL DEMANDED

Defendant(s).

**A. JURISDICTION**

- 1) This complaint alleges that the civil rights of

Plaintiff, JOSEPH L. MIZZONE

(print Plaintiff's name)

who presently resides as ELY STATE PRISON, PO Box 1989, ELY, NEVADA 89301, were  
(mailing address or place of confinement)  
violated by the actions of the below named individuals which were directed against

Plaintiff at NNYC PRISON, PO Box 7001, CALSEN CITY, NV 89170-7000 on the following dates  
(institution/city where violation occurred)

8<sup>th</sup> Amendment 3-28-15 TD, 1<sup>st</sup> Amendment 3-28-15 TD, and 5<sup>th</sup> Amendment 3-28-15 TD  
on going  
(Count 1) (Count 2) (Count 3)

(-#)

Make a copy of this page to provide the below  
information if you are naming more than five (5) defendants

1) • Defendant MR C. SMITH  
(full name of second defendant) resides at NNCC PRISON, PO BOX 7000, (ARMY CITY, NV 89701-7000)  
(address of second defendant)

and is employed as Correctional Officer for (NDOC), This defendant is sued in his/her  
 individual  official capacity. (Check one or both). Explain how this defendant was  
acting

under color of law: He worked as a Correctional Officer at NNCC Prison in Unit 5 And  
had full control of the units on 3-28-15 IN UNIT ROTUNDA. /OFFICERS REPORT Complaint.

2) • Defendant MR BRANNON (may be misread) LT  
(full name of third defendant) resides at NNCC PRISON, PO BOX 7000, (ARMY CITY, NV 89701-7000)  
(address of third defendant)

and is employed as LT (NDOC) HEARING OFFICER, This defendant is sued in his/her  
 individual  official capacity. (Check one or both). Explain how this defendant was  
acting

under color of law: Was the DISCIPLINARY HEARING OFFICER LT for my S-I-Ts

HENCHING AND HANDED DOWN UNLAWFUL PUNISHMENT TO PLAINTIFF FOR 3-28-15 INCIDENT  
OF OFFICER C. SMITH Report.

3) • Defendant MS LISA WALSH  
(full name of fourth defendant) resides at NNCC PRISON, PO BOX 7000, (ARMY CITY, NV 89701-7000)  
(address of fourth defendant)

and is employed as WARDEN (NDOC) AND GRIEVANCE COORDINATOR, This defendant is sued in his/her  
 individual  official capacity. (Check one or both). Explain how this defendant was  
acting

under color of law: Was the WARDEN AT NNCC PRISON AND GRIEVANCE COORDINATOR AND

SIGNED 2<sup>ND</sup> Level GRIEVANCE TO PLAINTIFFS DISCIPLINARY APPEAL for S-I-Ts on 3-28-15 INCIDENT  
Report C. Smith AND LT. Branon. Punishment.

4) • Defendant MR BACA  
(full name of fifth defendant) resides at NNCC PRISON, PO BOX 7000, (ARMY CITY, NV 89701-7000)  
(address of fifth defendant)

and is employed as WARDEN (NDOC), This defendant is sued in his/her  
 defendant's position and title, if any

under color of law: Was the WARDEN AT NNCC PRISON AND IS OFFICERS C. SMITH AND  
LT. Branon Supervisor for the S-I-Ts Disiplinary Hearing and 3-28-15 C. Smith Report Incident.  
AT NNCC PRISON.

individual  official capacity. (Check one or both). Explain how this defendant was acting under color of law: Active Assistant Director of Nevada Department of Corrections and was responsible for Defendants C. Smith, LT. BRANNON, Warden WASH, Warden BROWN in S-1-15 Disciplinary Hearing and Responsible for C. Smith 3-28-15 Report for Disciplinary and Punishment thereof.

6) Defendant MR COX resides at NVCC PRISON, PO BOX 7000, Carson City, NV 89701-7000  
(full name of sixth defendant) (address of sixth defendant)

and is employed as Director of Prison for Nevada Dept. of Corr., This defendant is sued in his/her (defendant's position and title, if any)

individual  official capacity. (Check one or both). Explain how this defendant was acting

under color of law: Active Director of Nevada Dept. of Corrections and was responsible for all Defendants in case for the S-1-15 Disciplinary Hearing procedures and Punishments thereof.

7) Jurisdiction is invoked pursuant to 42 U.S.C. § 1343 (a) and 42 U.S.C. § 1983. If you wish to assert jurisdiction under different or additional statutes, list them below.

- 1) under 11th Amendment All purposefully violated Plaintiff 8th and 14th Amendments Right And Therefor should not be granted To invoke the 11th Amendment Authority.
- 2) 42 USC § 1976 Civil Rights Attorney Fees of 42 U.S.C. § 1988 and Plaintiff's Cost
- 3) § 242 USC cause of part to a § 1983 Civil Rights Complaint (Criminal cause part)

#### B. NATURE OF THE CASE

1) Briefly state the background of your case.

On 5-1-15 Plaintiff had a Nevada Dept. Corrections Disciplinary Hearing with myself Joseph Mizrahi #68545, Noor LT. MR BRANNON HEARNS OFFICER, AND Christopher Degate #1010262 THE <sup>BRANNON</sup> (I requested Mr. DeGale)  
"only witness allowed by my request were all present at this disciplinary hearing. During this hearing LT DeGale (recorded all proceedings), Asked Plaintiff his response Plaintiff plead not guilty and LT DeGale read plaintiff his mandatory rights to a possible criminal sentence. Plaintiff statement was he didn't hit C. Smith on 3-28-15 and Plaintiff requested all witnesses " and video to the 3-28-15 incident". LT BRANNON denied all witnesses except Chris Degate #1010262 my cell in cell 5-B-29 At this time of incident. Mr Brannan would not allow any video requested, said there is no video its official use only. (There a video camera in Unit 5 A-18-and wings, Also at the front door entrance and back yard entrance, and there was hand held video by C/O Sergeant Robertson as a Search and Escort officer and on scene 3-28-15 During a part of Incident)

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## B. NATURE OF THE CASE

(CONTINUED)

Witness information send by C. SMITH (INOC) officers report said there were inmates around us and the Rotunda was full of Inmates which I have a Due process right under "Welfff" to be allowed all witness and video evidence to cross examine and marshall the facts of my accusers. (I was Denied) He only allowed my cell. Chris Deyale #1010262 and Mr Deyale #1010262 told what he saw to his ability from the area of the rotunda which is on 1 of 4 on the Disciplinary Form III under Witness Information. (I/M Mizoni requested I/M Deyale #1010262 and I/m testimony was accepted as relevant and is as follows: Fox cops came in our house S-B-29 and tore it apart. I know Joe was going to tell the cop that the house needs to be put together. When I come out Joe was on the wall. C/o Smith went to grab his arm and Joe said what are you doing. C/o Smith took him to the ground and said stop resisting. He then yelled for everyone to lock down. At this time other officers arrived and yelled lock down and I locked down.) Mr Deyale #1010262 testimony was ACCEPTED/RELEVANT. Not one time does Inmate Deyale state that Inmate Mizoni struck or assaulted or battered including cussing at C.smith (INOC). And Mr Deyale stated on tape also that there were all kinds of other witnesses in Rotunda stating they saw the same thing and stated Scotty Cox a Inmate but none were allowed to testify as witness in behalf of the plaintiff or Defendant C.smith in order to cross examine and or any of the several C/o came including C.smith to this Hearing to report or cross examine witnesses including MR Deyale #1010262 in which is a clear violation of plaintiff's constitutional right to the USA. to be allowed witnesses as long as they are relevant and not a threat to institution and as he can't see MR Deyale #1010262 was allowed and relevant and was no threat to institution and neither was any of the other witnesses. Plaintiff wanted the video for evidence to determine (W/H) exactly was in the rotunda at the time of 8:09 AM on 3-28-15 to determine who to call for his hearing and LT Brannon denied plaintiff all video said I was not allowed to see it. AR 707 page 50f 38 l.9 A qualified opportunity to call witnesses with substantive knowledge of issues and present documentary evidence.

(3-A)

## B. NATURE OF THE CASE

(Continued)

(18)

provided that to do so will not jeopardize institutional security or correctional goals. Mr Deyenre was a inmate witness he was working yard labor and Mr Brannon LT called him on the microphone and could of did so for all other witnesses including C.smith officers reporter. I should of been a named "ALL witnesses" because officers report says Inmates in Rotunda ect.. There were eye witnesses not here say. Plaintiff refers to Wolff v. McDonnell only to show violation. I prior to this disciplinary hearing wrote Ms Lisa Walsh Warden NNCC PRISON on a (NODC) file on the date of 4-5-15 to ask her for all Inmates and video evidence here at Disciplinary Hearing and way before it, her response was "Add here to the process" she didn't Also asked any and all pictures was denied all. Theres cameras everywhere on this yard but the night of incident? Come on. They denied all. Mr Brannon even asked plaintiff "what would this video do." I told him as said above and was still denied add and said its our policy not to show you video. I was charged for the following violations: MJ3 BATTERY; MJ2 ASSAULT; ABUSIVE LANGUAGE with only evidence STAFF REPORT. C/O LT MR BRANNON States after all said above he finds Plaintiff Guilty of Battery and drops the Assault and verbal cussing and does so only by C.smith Staff Report. This is not enough to convict on this disciplinary and this Staff Report is a False Report against plaintiff. Plaintiff had witnesses and video to prove this and C.smith nor any one else rebut my witnesses statement or have any witnesses himself to cross examine or back up his version of events, nor is it on the disciplinary reports or summary judgments or any CJ. THEN C/O Hearing Officer Brannon States hes convicting plaintiff from prior ~~one~~ incidents as late as (8years) ago and plaintiff is on new sentence. (1) incident was dismissed and the rest are in federal court from C/Os At Ely prison assaulting plaintiff every time while he was hand cuffed and leg shackled and they did what they can? REVERSE the charges to cover up those abuses. This Disciplinary C/O Brannon states all this on tape recording and its all punishment for prior acts which he is punishing plaintiff twice for those incidents ~~one~~ which he already served D/S time for and he admits it on tape and hes not punishing plaintiff for this incident because They Beat a mental Health Pt. up <sup>up</sup> (3-B)

B. NATURE OF THE CASE

(Continued)

he and this administration knows plaintiff did not hit C Smith and they are retaliating for genuine complaints and prior law suits on their Director E.K. McDowell and they say ~~he~~ he is the mastermind on this punishment. The disciplinary officer cannot convict plaintiff twice for the same crimes under the 5<sup>th</sup> and 14<sup>th</sup> Amendments and 8<sup>th</sup> Amendment as well for double Jeopardy clause. And its ironic CIO Brannon dismisses the Assault MJ2 and the abusive language 69 and sticks me with the Battery MJ3, how can you have a battery without a agent or a incident to cause it like cussing as CIO Smith's report says that all that triggered this incident and there for I shall not be guilty of a battery. He CIO Brannon gave me (2) years in a harsh and atypical hardship to Disciplinary Segregation without due processes of law and double jeopardy to that accused crime plaintiff proved by a preponderance of evidence and witness and the ones he was denied that he is not guilty of those crimes and he ~~feels~~ finds me guilty by 8 years ago incidents not the incident of 3-28-15 its on tape (in which I will and did request ALL tapes and video for court on my disciplinary appeal for court evidence). Punishments on Summary Judgement states 24 months D/S from 5-1-15 TO 5-17, Restoration unknown books frozen until amount determined and posted; STAT REF D/S?; and Category A, Criminal case possible. That was sentence on 5-1-15 plaintiff was never sentence for Stat time credits or Restoration or Criminal prosecution as recommended by CIO Brannon and now its 9-9-15 over (4 month) time laps which is past all due process on any such punishment. And for further punishment which is a separate S1983 Civil Rights Case ~~and~~ Plaintiff's version is after C Smith CIO tore plaintiff's cell up in his ray plaintiff only told C Smith CIO that he quit his porter job and C Smith CIO comes out the Unbreakable WHAT THE F\*\*\* DID YOU SAY? tells me to get against the wall I comply, he orders the whole unit to lock down and R had my Head turned towards the right of me and C Smith with out warning grabs my left wrist as hard as he could and I reacted and swing around not knowing

## B. NATURE OF THE CASE

(Continued)

it was this CIO, because there was still inmates around and I turned with my body towards the left caught myself seen it was C.Smith and I turned back towards the wall and I put my hands backs up on window wall. (I am also blind out left eye with contacts so that played a factor on who grabbed me) C.Smith then grabbed my some rust and took me down to the ground, I landed side by side to how I was on his [REDACTED] Right side he was on my left side, I then went to my stomach crawled 1 foot and started cuff me up then He jumped on me and cuffed me up and sat on me flat on my stomach, his other CIOs came in Unit 5, 3 or [REDACTED] 4 on top of my legs and torso, and a Unknown CIO possible John? put me in a choke hold then grabbed my head/neck area and said did you hit my CIO - you hit my CIO and slammed my head on the left side repeatedly to concrete floor and then grabbed my left side guts and dug his fingers into them and pulled, then push my left hand down on the ground and pushed and grounded my head/face on concrete floor. while entire he or another CIO pushed my left knee down on the floor and pushed and grounded my knee in all to [REDACTED] knock me out once and cause me severe pain and suffering and bleeding to face and knee. I was filmed by CIO Sergeant Robertson I saw her during this part I was then lifted up to my feet dragged to the Unit 5 entrance where theres a visible top camra and the CIOs about (6) or so said with a continuous discussion "Forward or Backwards"? And they all agreed Backwards. a CIO Senior I believe light tan shirt put me in a choke hold and they all dragged me across the prison yard one hitting huge curb with my heels and this distance was by mile to the RMP Infirmary and this same CIO bent my thumb backwards and my rust along with others on the way and broke both my wrists/hand areas because the hand cuffs were so tight which to inflict pain and cut of circulation against all of you. Upon getting to Infirmary I was dragged through two double doors to g crane room.

(3)

## B. NATURE OF CASE

(Continued)

Still pictures were took by CIO Robertson and another CIO of my injuries to my knee and head and cuffs on my wrist. I was only treated with a surgery frame. I bonded to knee, I bonded to head/knee area that's it. No other else x-rays etc. I passed out during the drag me across the yard once. I was then only escorted by 3 CIOs to Unit 7-A-15 without any incident which proves there was excessive force used prior. Plaintiff - scars, two broken wrist, Concussion Scar, knee scar, neck broken or popped out etc. Plaintiff wrote his Disciplinary Appeal all this was send and reported and Plaintiff filed his appeal on 5-1-15 the very day he was sanctioned for his false Disciplinary for 3-28-15. He waited per AR740 for 1 month and 2 days for a response (overdue) he then went ahead and filed his 1<sup>st</sup> Level Grievance Appeal Form Doc 3054 on 6-17-15 and did a thorough explaining of all said above. The Grievance Coordinator D. Clark received my second Level Grievance on 6-18-15. Then on 7-18-15 WARDEN LISA WILSTH signed the 2<sup>nd</sup> Level Grievance and Plaintiff received it on 7-27-15 over a month after writing that one, there was no response on Second Level just a memo for 1<sup>st</sup> Level Response <sup>NO</sup> other documentation to go by so plaintiff argued his appeal and what he said was honored and by law this would be the case no answer to a complaint or statement needs they agree with plaintiff. Plaintiff then waited and around 7-15 he even filed another 1<sup>st</sup> level Appeal to make sure and on 7-27-15 he received this second level on his 1<sup>st</sup> Appeal Attempt and as send that's Grievance # 1006-29-99675 Letter (ARDC) at once tried to hit plaintiff with his 1<sup>st</sup> Level Attempt Appeal and say I now had to include my Superior Judgment in which for the record I complied to it and told them this issue been to close all ready. Plaintiff exercised all his remedies on timely basis and shouldn't wait for them to change their policies because of there response all ready. Because of this false report by C.Smith I need 2 years whole O/S

## B. NATURE OF CASE

(continued)

time which include NO appliances for over 60 Days you can get one but if it has batteries you can't have them. No visits except once a month 2 hours behind glass while your legs and hands are shackled (Illegal in its self), No store except a limited cheap soap, lotion pants, shampoo pants, envelope, stamps, rubber pens, pencil. That's it pretty much. Which all of these sanctions in its self are Illegal compared to ~~SACR~~ <sup>(only comparing)</sup> ~~and us Connors~~ the whole D/S is not the same as GP at all. Also when I was last in D/S they didn't have these sanctions and nor have they changed the Administration Regulation Hand Books for AR 707 all though they ~~never~~ had inmates sign a AR to 707 8 years ago it was not revised in to AR 707 rules and regulation so in turn plaintiff assumed it was changed back to the original AR 707 rules as there stated. Plaintiff got a check out of these above sanctions added to a O/S sentence and no where is any of these posted in AR 707 (NNCC) rules hand book and to further a due when plaintiff was sanctioned to the 5-1-15 Disciplinary Sanctions that day the CIO BRENNAN NEVER once said to plaintiff these are further sanctions on tape, paper, or in person to give plaintiff due process of law by telling him of such sanctions as further punishment to his sentence of O/S time nor did the CIOs or administration tell plaintiff of such up to date in 2015 that this AR 707 was revised and in forced. Also Plaintiff's Summary Judgment states 24 months D/S, Stat for future possible, Criminal possible and resolution. "NO where" does it say additional due process for store loss, Visits limited, Appliance restrictions or any other property. on plaintiff's Summary Judgment 5-1-15 hand drawn which is a violation of 8<sup>th</sup> Amend and 14<sup>th</sup> Amendment to due process of law and plaintiff is even on a new sentence from 8 years ago. During my D/S time while at NNCC Prison where I had the D/S sanctioned I was still allowed to order store All store including razors and nail clippers ~~from~~ from 5-1-15 to 7-10-15 over two months after my D/S sanctions were imposed and I received my appliances from 5-1-15 to 8-10-15 until I went to Ely Prison and once here plaintiff was denied his appliances a month now by Ely guards as well. <sup>(B. 2015 if my property was held for 5 months)</sup> <sup>(3-F)</sup> They did not give a Due Process for my mental health statute

## B. NATURE OF CASE

(continued.)

And because plaintiff was illegally-falsely accused and sanctioned by (MDC) defendants he lost his GP yard privileges of (1) YARD 3 times a week, (2) Bond Room; (3) Privileges Practice for church; (4) Cafeteria meat in cafeteria, (4) Coffee shop privileges; (5) Law library privileges; (6) Contact visits for 8 hrs in visiting room, (7) NO Restraints on hands or feet; (8) Tear time in unit night/Day; (9) Showers every day; (10) Credit; (11) Regular store; (12) All Appliances; (12) Moved from one institution ~~of~~ of a medium yard to a super max yard located down 24-7, (13) NO ~~privileges~~ (4) Dental medical treatment by my orthopedic surgeon DR. Long under his care for both my cost to see him or further treatment in Las Vegas City from by Rev. (15) Hardship for my family and lawyer to care here at the Prison and not be able to consult me on a-roto care 3:14-cv-358 went to California eye care and other GP related privileges ~~concernes~~, and Liberties Liberties. Also I was put as (HRP) High Risk Prisoner from 3-28-15 to 7-10-15. For no reason, no due process hearing, no nothing. The whole time and per (MDC) AR your spinal to get a due process hearing when done to a higher level of custody. Also since never given me a due trial due process that I was to be moved to a max prison nor does those processes say on paper, at my disciplinary hearing, ver. on tape in general, none was ever afforded to me none when they took me off (HRP) High risk prisoner was I given a hearing then which all violates the 14<sup>th</sup> Amendment. I won my appeal by (MDC), since Lisa Hatch, COA, mesant, COX or any one else doing it or saying doing I lost it or any other due process I was allowed to confront these decisions of it on both levels and they signal it off to 2<sup>nd</sup> level Appeal form as enclosed on complaint. I shall be compensated for punitive damages, compensatory damages, emotional damages, and have all my already back at MDC prison and expunged of record. Plaintiff was singled out and treated different than other inmates before when C. Smith ordered to lock down and some did not. I was the only one to go to D/S and be punished. (UNQUOTE) and past the time limit to do anything to such inmates has passed but by not obeying a direct order is a major offense OR 727 (MDC) and no one was punished but me, against equal protection of laws to.

(3-6) (Plaintiff still D/S Ellington)

**C. CAUSE OF ACTION****COUNT I**

The following civil rights have been violated: 1<sup>st</sup> Amendment Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or press, or right of people peaceably to assemble and to petition the Government for a redress of Grievances.

**Supporting Fact:** [ Include all facts you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights ].

D. SMITH corporal officer on 3-28-15 violates my 1<sup>st</sup> Amend to USCA for freedom of speech. He did so by using excessive force on me, False Disciplinary, attempting by <sup>lying</sup> to his partner to make them react to my beatings. Sanctions of 05 24 months, <sup>Restitution</sup> Stat fine, and all sanctions on (NATURE OF THE CASE B) pages <sup>3</sup> 1 to 3(G) all because Plaintiff said he quit his porter job in unit 5-Rulebook. And even if it were true on his report "Mizzion said show it up your ass" under AR 707 is only punishable by <sup>verbally</sup> reprimand or (to) my work duty G-9 Above language. He prohibited me from free speech and by doing so violated my 1<sup>st</sup> Amended rights. to use carry force and more worse Severe Excessive Force punishment with out due process of law.

(25)

## COUNT II

The following civil rights have been violated: Amendment 8 - Excessive Bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Supporting Fact: [ Include all facts you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights ].

All Defendants violated my 8<sup>th</sup> Amendment rights afforded to me by severely punishing me without due process of law. C. Smith Cb on 3-28-15  
and so by (B. NATURE OF CASE. Pages 3 to 3-6) as set on this complaint.  
and see (page 4) of this complaint to further add.

Noce LT BRENNER, WARDEN WALKER, WARDEN MCGOWAN, ASSISTANT DIR. McDONNELL,  
Director as all violated my 8<sup>th</sup> Amendment rights by (B. Nature of Case  
Pages 3 to 3-6) and by participating, conspiracy and ordering these  
officers mutual to do so and training all. Did so by being The Warden, LT  
and Directors AT NEVADA DEPT. OF CORRECTIONS (NRCC) Prison in Carson City Nev.  
on behalf of the (NRCC) AND ALL ITS Officers, Directors, Employees former  
Employees, Agents, Predecessors, Boards, Panels, Divisions, Successors,  
Administrators, and assigns, Acting privately, Individually, or under color  
of Authority of, or For the benefit of, (NRCC) or its operations,  
including its operation Arising from or Relating to the Provision or  
Delivery of medical care to inmates of (NRCC) herein after

NRCC Medical Care and protection to staff and inmates, and  
(On my date AT ELY 4-8-14 5245) (LAWALST signature)  
A Red 916 Assistan STAFF IS A ,  
LIC.

Signature is on grievance #2006-21-44675)  
2nd level with Coordinator Clerk signature)

Further including any Person responsible for promulgating, Mandating, Enforcing any Rules or Disciplinary, Directives, regulations, (here after all such persons are collectively referred to as a Defendants and The State of Nevada for all prisoners at NVCC). For all Sanctions imposed and a Harshship and Atypical change in my ordinary prison GP time to A most Prison as said (NO MENTAL HEALTH HERING TO Plaintiff) After they beat a mental health person up.) They all violated 8<sup>th</sup> Amendment to USCA by cruel and unusual punishment and even also after plaintiff won his Appeal Grievance attached which was signed by Grievance Coordinator D. Clark on 6-18-15 and then by Admin Warden Lisa Walish on 7-13-15 and then by Plaintiff on 7-27-15 and the answering warden just nothing under upheld or denied and excepted plaintiffs version by not answering these areas of grievances and by law if nothing else is attached or no answer then the Defendants would be agreeing in full to Plaintiffs complaint/Appellate as the truth and stands in the (NDOC) 2nd Level Grievance levels as said to attached Grievance # 2006-29-99675.

And instead of giving Plaintiff his relief they all gave plaintiff DIS 24 months, Resolution, Stat Referal, Criminal sanctions possible. (See; B. NATURE OF CASE Page 3 to 36) to show court the privileges, answers, and liberty interest loss because of this failure to due process of law and plaintiff still suffer this Harshship and Atypical Conditions compared to GP at NVCC minimum yard to a MAX yard lock down 24/7 at Ely Prison as said.

The defendants then tried to give plaintiff the 1<sup>st</sup> level grievance back after this was above was ended on the appeal and invited Plaintiff to resubmit again with new Plaintiff's Summary Judgment from the Disciplinary. Plaintiff disagreed had on that grievance as above and sent the Summary Judgment and response back to Defendants he has yet to see those response. The Defendants had adequate time and then tried to take two bites out of the apple of Appeal/legalities. S-A (Plaintiff should get automatic Summary Judgment)

## COUNT III

(25)

The following civil rights have been violated: Amendment 14 All persons born or naturalized in the United States, and subject to the jurisdiction thereof, shall not be denied any rights which are guaranteed to citizens of the United States, nor shall any State deprive any person within its jurisdiction of equal protection of the laws.

Supporting Fact: [Include all facts you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

All Defendants violated my 14<sup>th</sup> Amendment Rights to Due process and Equal protection of the law and Due to Deny and Deny to the 5<sup>th</sup> Amendment to not be punished twice for the same crime. Please see

(B. NATURE OF CASE Page 3 to 3G) which all violates plaintiff's 14<sup>th</sup> and 5<sup>th</sup> Amendment Rights to the USCA from start to

finish and to avoid time and unnecessary reading (Nature of case) says all, it's all A Due Process Violation under such laws. For C. Smith - false write up and sanctions for 3-28-15 and 5-1-15<sup>(Inadmissible)</sup> and <sup>On-going</sup> that followed.

LT. BEAMAN - Disciplinary Hearing C10 5-1-15 and all sanctions imposed there of without witness and under <sup>video evidence</sup> etc. in WARDEN WILSON AND DOCA. Supervisors of all CIOs involved as said in

(Nature of case Page 3 to 3G) and also may see (pages 5 to 5A) of this complaint for leaders of abuses and all sanctions <sup>on</sup> plaintiff

ASSISTANT Director McDaniels and Director Cox all the Head of NOC on every position to supervisor and reader see; (B. NATURE OF Complaint / Case) Pages 3 to 3G) and see; (PAGE 5 to 5A) of this complaint to follow

Show supervision of all sanctions imposed on plaintiff as said to same time for this went to real repeatedly. No Mental Health Hearing After first Plaintiff

or mental Health from his time in jail to A max prison from ~~medium~~ <sup>Medium</sup> Mental Health year 2.

**D. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF**

- 1) Have you filed other actions in state or federal court involving the same or similar facts as involved in this action?  Yes  No. If the answer is "Yes", describe each lawsuit. (If more than one, describe the others on an additional page following the below outline)

a) Defendants: The State of NW in Rel. to (NDIC) McDonald, Plaintiff, (NW)  
 b) Name of court and docket number: # 3:11-CV-00186-LRH-WGC  
 c) Disposition (for example was the case dismissed, appealed or is it still pending?):  
It was dismissed by 9th Cir Court Appeal  
 d) Issues raised: 8<sup>th</sup> and 14<sup>th</sup> Amendment for not allowing a Henry Art At.

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e) Approximate date it was filed: January 20, 2011  
 f) Approximate date of disposition: Jan - 2015

- 2) Have you filed an action in federal court that was dismissed because it was determined to be frivolous, malicious, or failed to state a claim upon which relief could be granted?  
 Yes  No. If your answer is "Yes", describe each lawsuit. (If you have had more than three actions dismissed based on the above reasons, describe the others on an additional page following the below outline).

Lawsuit #1 dismissed as frivolous, malicious, or failed to state a claim:

a) Defendants: NDC Blawie et al v. Driscoll  
 b) Name of court and case number: # 3:07-CV-00208  
 c) The case was dismissed because it was found to be (check one):  frivolous:  
malicious or failed to state a claim upon which relief could be granted  
 d) Issues raised: 1<sup>st</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> Amend to USCA

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e) Approximate date it was filed: 9-1-06  
 f) Approximate date of disposition: 6-6-07

Lawsuit #2 dismissed as frivolous, malicious, or failed to state a claim:

a) Defendants: \_\_\_\_\_  
 b) Name of court and case number: \_\_\_\_\_

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- c) The case was dismissed because it was found to be (check one): frivolous:  
malicious or failed to state a claim upon which relief could be granted

- d) Issued raised: \_\_\_\_\_  
\_\_\_\_\_

- e) Approximate date it was filed: \_\_\_\_\_

- f) Approximate date of disposition: \_\_\_\_\_

Lawsuit #3 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: \_\_\_\_\_

- b) Name of court and case number: \_\_\_\_\_

- c) The case was dismissed because it was found to be (check one): frivolous:  
malicious or failed to state a claim upon which relief could be granted

- d) Issued raised: \_\_\_\_\_  
\_\_\_\_\_

- e) Approximate date it was filed: \_\_\_\_\_

- f) Approximate date of disposition: \_\_\_\_\_

- 3) Have you attempted to resolve the dispute stated in this action by seeking relief from the proper administrative officials, e.g., have you exhausted available administrative grievance procedures?  Yes  No. If your answer is "No", did you not attempt administrative relief because the dispute involved the validity of a (1) disciplinary hearing; (2) state or federal court decision; (3) state or federal law or regulation; (4) parole board decision; or (5) other \_\_\_\_\_

If your answer is "yes", provide the following information. Grievance Number # 2016-29-91625

Date and institution where grievance was filed 1st Level Appeal 5-1-15 AND 2nd Level 6-11-15

Response to grievance: No Response on the 1st level so plaintiff file 2nd level

Level 2 gave back No Response to that Level action

(3)

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**E. REQUEST FOR RELIEF**

I believe that I am entitled to the following relief:

- 1) Compensation Relief of \$500,000 thousand Dollars
- 2) Punitive of \$500,000 thousand dollars.
- 3) Emotional Damages of \$ 500,000 thousand Dollars

Immediately 4) Injunction Relief - Expunge Disciplinary off record for youth put back in GPNice was Immediately  
5) Give any fine time back? and restitution money back?

I understand that a false statement or answer to any question in this declaration will subject me to penalties of perjury. **I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT.** See 28 U.S.C. § 1746 and 18 U.S.C. § 1621.

My self  
(Name of person who prepared or helped prepare this complaint if not Plaintiff)

  
(Signature of Plaintiff)  
9-10-15  
(Date)

6) If (1606) Cannot provide plaintiff with his medical states  
(Additional space if needed; identify what is being continued)

Plaintiff ask to move to a prison equal to, or out of State to accommodate his action in this law suit as truth.

(31)

1                   **CERTIFICATE OF SERVICE BY MAIL**

2                   Pursuant to N.R.C.P. Rule 5 (b), I hereby certify that I am the petitioner/Defendant named  
3                   herein and that on this 10<sup>th</sup> day of September 2015, I mailed a true and correct copy  
4                   of the foregoing document to the following:

5                   1)

6                   To: Clerk of US Dist Court Nev.  
7                   Dist of Nevada.  
8                   400 South Wriggins St., Room 301  
9                   Reno, Nevada 89501

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Release 1<sup>st</sup> Level Appeal  
was race Reversed.

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**LOG NUMBER:** \_\_\_\_\_

**NEVADA DEPARTMENT OF CORRECTIONS  
SECOND LEVEL GRIEVANCE**

NAME: JOSEPH L. MIZZONI I.D. NUMBER: 68549

INSTITUTION: NNCC. PRISER UNIT: 7-B-62

I REQUEST THE REVIEW OF THE GRIEVANCE, LOG NUMBER\_\_\_\_\_ , ON THE  
SECOND LEVEL. THE ORIGINAL COPY OF MY GRIEVANCE AND ALL SUPPORTING DOCUMENTATION  
IS ATTACHED FOR REVIEW.

**SWORN DECLARATION UNDER PENALTY OF PERJURY**

INMATE SIGNATURE: Joseph J. Mazzoni DATE: 6-17-15

WHY DISAGREE: Because I Put in a Disciplinary Appeal in on 5-1-15  
within the (15 day) Time limit of AR 707. This was for a incident  
I was legally charged for Assault, Battery, Abusive Language, in which it  
has been well pass the Grievance time limit to answer the 1<sup>st</sup> level grievance  
and so in turn between that grievance and your Dept not answering in a timely  
GRIEVANCE COORDINATOR SIGNATURE:  DATE: 

## **SECOND LEVEL RESPONSE:**

GRIEVANCE UPHELD      GRIEVANCE DENIED      ISSUE NOT GRIEVABLE PER AR 740

**SIGNATURE:** \_\_\_\_\_ **TITLE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

GRIEVANCE COORDINATOR SIGNATURE:  DATE: 7/15/11

**INMATE SIGNATURE:**  **DATE:** 7-27-15

**THIS ENDS THE FORMAL GRIEVANCE PROCESS**

Original:	To inmate when complete, or attached to formal grievance
Canary:	To Grievance Coordinator
Pink:	Inmate's receipt when formal grievance filed
Gold:	Inmate's initial receipt

(33)

**NEVADA DEPARTMENT OF CORRECTIONS  
GRIEVANT'S STATEMENT CONTINUATION FORM**

NAME: Joseph Mizoni I.D. NUMBER: 68549

INSTITUTION: NNG Prison UNIT #: 7-B-62

GRIEVANCE #: 2006-24-99675 GRIEVANCE LEVEL: 2<sup>nd</sup> Level

GRIEVANT'S STATEMENT CONTINUATION: PG. 2 OF 2

Manner per AR 740. I would now ask that all my (Nox) Disciplinary be dismissed in the entirety and expunged of my Disciplinary record permanently, and I be released out of Disciplinary Segregation, back to the NNGC prison yard id Level 2 where I was. I Stand by my 1st Level Grievance on this 2nd Level ~~the~~ Grievance. If not this yard move me to one where I can be individually tracked and do my time without false Disciplinary and harassment and unjust punishment related to the 8th Amendment to the U.S.A. of Cruel and Unusual punishment and None Due Process of law and now add this under AR 740 and 14th Amendment to receive a answer in a timely manner to marchel the facts and respond to my appeal per AR 740. of Due process of Law.

Original: Attached to Grievance  
Pink: Inmate's Copy

**NEVADA DEPARTMENT OF CORRECTIONS  
MEMORANDUM**

TO: Mizzoni, Joseph 68549

FROM: Lisa Walsh, AWP/NNCC

DATE: 7/8/2015

SUBJECT: Improper Grievance #: 20062999675

**The attached grievance is being returned to you for the following reason(s):**

- Non-Grievable issue:

  - State and Federal court decisions
  - State, Federal, and local laws and regulations
  - Parole Board Decisions
  - Lacks Standing

Untimely submission

No remedy noted

Abuse of Inmate Grievance Procedure
  - Any language, writing or illustration deemed to be obscene, profane, or derogatory
  - A threat of serious bodily injury to a specific individual
  - Specific claims or incidents previously filed by the same inmate
  - More than four (4) unfounded, frivolous or vexatious grievances per month
  - Allegations proven to be false

The grievance contains more than one incident, issue, etc.

Other; Specify: 3098 – You must attach the Informal and First Level of this grievance.

You may resubmit your grievance after correcting the above deficiencies. Failure to resubmit the grievance through the prescribed timeframe shall constitute abandonment.

  
Witness Signature Date:

**Witness Signature**

Date:

**Inmate Signature**      **Date:**

Date:

**Cc: Original – Inmate**

**Copy – Grievance File**

INMATE REQUEST FORM

1.) INMATE NAME	DOC #	2.) HOUSING UNIT	3.) DATE
<u>Joseph Mizzone</u>	<u>68549</u>	<u>7-B-62</u>	<u>4-5-15</u>

- 4.) REQUEST FORM TO: (CHECK BOX)
- |                                     |  |   |                                  |
|-------------------------------------|--|---|----------------------------------|
| <input type="checkbox"/> CASEWORKER | <input type="checkbox"/> MEDICAL       | <input type="checkbox"/> MENTAL HEALTH                            | <input type="checkbox"/> CANTEEN |
| <input type="checkbox"/> EDUCATION  | <input type="checkbox"/> VISITING      | <input type="checkbox"/> LAW LIBRARY                              | <input type="checkbox"/> DENTAL  |
| <input type="checkbox"/> LAUNDRY    | <input type="checkbox"/> PROPERTY ROOM | <input checked="" type="checkbox"/> OTHER <u>KILLED MS. WALSH</u> | <u>FOR MY JAILER and Court</u>   |

5.) NAME OF INDIVIDUAL TO CONTACT MS WALSH (Please Retain all Video/Still pictures)

6.) REQUEST (PRINT BELOW) MAM, I am in 7-B-62 I went to a Hearing on 4-4-15 and Received my Notice of charges and was Recd everything in Cbs on his Visiting Unit 5 on 3-28-15 he said he order Inmates to lock it up and they did, then he said he ordered several "Inmates" to get back ~~R~~ because his retunda was full of other inmates. AT the hearing I requested those inmates in the retunda and around myself and Cbs staff NAMES or Affidavits to or any other Inmates version of events to be at my disciplinary. Also please request all video/still pictures from inside Unit 5 to 7-A-38 on 3-28-15 in order to Confront witness and evidence with charges against me man. Thank You.

7.) INMATE SIGNATURE Joseph Mizzone

DOC # 68549

8.) RECEIVING STAFF SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_

9.) RESPONSE TO INMATE

Adhere to the process

10.) RESPONDING STAFF SIGNATURE Ric

DATE 4/17